

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

D'MONTERRIO GIBSON

PLAINTIFF

v.

Civil Action No.: 3:23-cv-54-DPJ-FKB

**FEDERAL EXPRESS CORPORATION, CITY OF
BROOKHAVEN, MISSISSIPPI, CHIEF KENNY
COLLINS, IN HIS INDIVIDUAL AND OFFICIAL
CAPACITY, BRANDON CASE, and GREGORY CASE**

DEFENDANTS

COMPLAINT
(Jury Trial Demanded)

COMES NOW, Plaintiff D'Monterrio Gibson (hereinafter "Plaintiff"), by counsel, and files this his *Complaint* against Federal Express Corporation, City of Brookhaven, Mississippi, Chief Kenny Collins, in his individual and official capacity, Brandon Case, and Gregory Case, to recover actual and punitive damages (against the individually-named Defendants) for the Defendants' acting in concert and conspiracy to violate Mr. Gibson's rights under 42 U.S.C. §1981, for obstruction of justice, and Mississippi common law claims of negligence and intentional torts and would show unto the Honorable Court the following, to wit:

PARTIES

1. Plaintiff is an adult resident citizen of the State of Mississippi, residing in Hinds County, Mississippi.
2. Defendant Federal Express Corporation (hereinafter "Defendant FedEx") is a foreign corporation with its principal place of business in Tennessee, qualified to do business in the State of Mississippi, and it may be served with process upon its registered agent, C T Corporation System, at 645 Lakeland East Drive, Suite 101, Flowood, MS 39232.

3. Defendant City of Brookhaven, Mississippi (hereinafter "Defendant City") is a city entity that may be served with process on Samantha Melancon, City Clerk, at 301 S 1st Street, #102, Brookhaven, MS 39601.
4. Defendant Chief Kenny Collins (hereinafter "Defendant Chief Collins") is an adult resident citizen of the Lincoln County, employed by City of Brookhaven, and he may be served with process at his place of employment, Brookhaven Police Department, located at 440 Hwy 51 South, Brookhaven, MS 39602.
5. Brandon Case (hereinafter "B. Case") is an adult resident citizen of the State of Mississippi. He may be served with process at 417 Junior Trail, Brookhaven, MS 39601.
6. Gregory Case (hereinafter "G. Case") is an adult resident citizen of the State of Mississippi. He may be served with process at 417 Junior Trail, Brookhaven, MS 39601.

JURISDICTION and VENUE

7. This action is being brought pursuant to 28 U.S.C. §1331, 28 U.S.C. §1343 (1-4), and 2202 as this case involves a Federal Question based on Plaintiff's protected rights under 42 U.S.C. §1981, for obstruction of justice, and Mississippi common law claims of negligence and intentional torts.
8. Venue is proper in the Southern District of Mississippi, pursuant 28 U.S.C. §1391 since the actions complained of giving rise to this claim occurred in this judicial district. The matter in controversy exclusive of interest and costs exceeds \$100,000.00 (One Hundred Thousand Dollars).

STATEMENT

9. Plaintiff D'Monterrio Gibson was acting within the scope of his employment with Defendant FedEx on January 24th, 2022, when he was civilly assaulted and battered by Defendants Brandon and Gregory Case. Defendants Case essentially terrorized, shot at, and chased Mr. Gibson out of the Junior Trial neighborhood of Lincoln County, Mississippi. Following the assault of Mr. Gibson, the Defendants City and Chief Collins deliberately delayed the proper investigation of the Mr. Gibson's claims against the Defendants Case, delayed the arrest of said Defendants Case, and delayed the presentation of critical evidence and documentation pertinent to the instant matter. Defendant FedEx sent him back to work on the same dangerous route the following day, intentionally discriminating against Plaintiff because of his race and intentionally inflicting emotional distress. This unconscionable conduct violated both Federal and State law. Justice for these acts is sought by this lawsuit.

FACTS

10. This is a claim for Federal law violations, State law negligence, and intentional torts and racial discrimination filed by Plaintiff. These violations caused severe pain and suffering to D'Monterrio Gibson on January 24th, 2022.

11. At all times material hereto, Defendant FedEx was the employer of Plaintiff D'Monterrio Gibson, an African-American male.

12. On January 24, 2022, Plaintiff was delivering packages as an employee of FedEx, in the Junior Trial neighborhood of Brookhaven, Mississippi (Lincoln County). Plaintiff arrived at the residential destination, delivered the package, and returned to his work truck.

13. When Plaintiff returned to his work truck, he noticed a white truck (driven by Defendant G. Case) speeding towards him from behind. Defendant G. Case began honking his horn.
14. Defendant G. Case recklessly sped past Plaintiff to cut him off, but Plaintiff was able to maneuver the work truck around them and continued driving.
15. At this point, Defendant B. Case is waving a firearm in Plaintiff's direction in the middle of the street, motioning for Plaintiff to stop the vehicle. Plaintiff refused and drove around Defendant B. Case.
16. Defendant B. Case began to fire shots at Plaintiff as he was trying to get to safety.
17. Defendants Brandon and Gregory Case proceeded to chase Plaintiff throughout the Junior Trial neighborhood and nearby to the main interstate/highway.
18. Following this terrifying ordeal, Plaintiff continued to drive until he found an area where he felt safe and immediately contacted his supervisor to report the incident and requested that he call the police.
19. The supervisor wanted to wait until the following day to report the incident to the police, so Plaintiff had to call the police on his own.
20. Plaintiff went to the Brookhaven Police Department ("BPD") to make a report about the incident. An officer at the BPD took down notes and told Plaintiff that he would give it to his supervisor, Chief Collins, the following morning. The officer also asked that Plaintiff return to BPD the next morning with his supervisor.
21. Plaintiff returned to Defendant FedEx Richland, MS location when he left the Brookhaven Police Department.

22. Upon his arrival, Cressa (another employee of FedEx) began inspecting the van and taking photos. She observed many bullet holes inside the back of the van and the packages. A bullet fragment was also found in the back of the van.

23. On January 25th, 2022, Plaintiff returned to work for Defendant FedEx. Plaintiff was provided an official “FedEx” vehicle this time, and he was asked not to speak with any News outlets. Additionally, Plaintiff was assigned to the same route as the day before, which included the Junior Trial neighborhood of Brookhaven, Mississippi.

24. Plaintiff attempted to complete his work route, but due to experiencing severe panic and anxiety from the subject incident, he had to inform Defendant FedEx that he was uncomfortable working.

25. The same date, Plaintiff and a supervisor went to BPD for Plaintiff’s statement. While at BPD, Plaintiff was taken back to the scene of the subject incident and waited in the police vehicle as police officials with individuals in the area about the incident.

26. Once Plaintiff and the supervisor were done at the Brookhaven Police Department, they returned to Defendant FedEx’s Richland, Mississippi location. Plaintiff was asked to start his route, but he again informed the supervisor that he felt uncomfortable performing the route.

27. The following day, January 26th, 2022, Plaintiff began medical leave process due to severe anxiety. He was told that he should see a therapist, and Defendant FedEx would cover eight (8) free sessions, with two-weeks off without pay. Plaintiff began therapy sessions in February 2022.

28. Despite Plaintiff filing claims against Defendants Case, Defendant City and Chief Collins did not make an arrest until much later. In fact, Defendants City and Chief

Collins gave Defendants Case time to turn themselves in, which was eight (8) days later. Defendants Case were only in custody for approximately one (1) hour. Defendant B. Case was charged with aggravated assault, and Defendant G. Case was charged with conspiracy. Both Defendants were released on bond the same day.

29. Since their release on bond, Defendants City and Chief Collins have delayed the process of securing justice for Plaintiff. Defendant Chief Collins intentionally delayed justice for Plaintiff by delaying the presentation of critical evidence and documentation pertinent to the instant matter on January 24th, 2022, for nearly ten months, and failed to properly investigate the crimes allegedly committed by Defendants Brandon and Gregory Case.

30. Plaintiff was racially discriminated against in violation of 42 U.S.C. §1981 by Defendant FedEx, and he suffers severe mental anguish and anxiety, loss of sleep, depression, and post-traumatic stress disorder because of the wanton, reckless, and/or intentional actions of the Defendants.

FIRST CAUSE OF ACTION
(42 U.S.C. §1981 Intentional Racial Discrimination)

31. Plaintiff hereby repeats and re-alleges all averments, statements, and paragraphs 1 through 30, inclusive, as if fully set forth herein.

32. Defendant FedEx has discriminated against Plaintiff in violation of 42 U.S.C. §1981 by subjecting him to disparate treatment because of his race, by attempting to coerce him into delaying filing any charges with the Brookhaven Police Department, by attempting to force Plaintiff to work the same route where the traumatic incident of January 24th, 2022, took place, and by demanding more than once that Plaintiff return to work following the January 24th, 2022 incident.

33. As a direct and proximate result of the Defendant FedEx's unlawful discriminatory conduct in violation of 42 U.S.C. §1981, Plaintiff has suffered and continues to suffer financial and economic damages as well as severe mental anguish and emotional distress, including but not limited to, depression, stress and anxiety, loss of sleep, and emotional pain and suffering.

34. Defendant FedEx's unlawful discriminatory conduct constitutes a willful and wanton violation of 42 U.S.C. §1981, was outrageous and malicious, was intended to injure Plaintiff, and was done with reckless indifference to Plaintiff's civil rights, entitling him to an award of damages.

SECOND CAUSE OF ACTION

(Civil Assault & Battery against Brandon & Gregory Case and Chief Kenny Collins)

35. Plaintiff hereby repeats and re-alleges all averments, statements, and paragraphs 1 through 30, inclusive, as if fully set forth herein.

36. As a result of the individually-named Defendants Brandon Case, Gregory Case, and Chief Collins' actions, including the shooting at Mr. Gibson without justification, the Plaintiff was wrongfully assaulted without just or probable cause or provocation. These actions also resulted in the intentional infliction of emotional distress. Chief Collins assaulted Plaintiff at a peaceful rally after the shooting.

37. As a result of the foregoing, the Plaintiff suffered serious mental issues, including severe anxiety, loss of sleep, depression, and emotional distress.

THIRD CAUSE OF ACTION

(Negligent/Intentional Infliction of Emotional Distress against all Defendants)

38. Plaintiff hereby repeats and re-alleges all averments, statements, and paragraphs 1 through 30, inclusive, as if fully set forth herein.

39. Plaintiff claims that he suffered serious emotional distress as a result of Defendants' actions and misconduct towards him.

40. The conduct of the Defendants was a substantial factor in causing Plaintiff's serious emotional distress; including but not limited to: anguish, fright, horror, nervousness, anxiety, shock, humiliation, and shame that an ordinary, reasonable person would be unable with which to cope. Plaintiff is also suffering from severe depression and post-traumatic stress disorder as a result of the negligent or intentional actions of Defendants.

FOURTH CAUSE OF ACTION
(General/Gross Negligence against Brandon & Gregory Case)

41. Plaintiff hereby repeats and re-alleges all averments, statements, and paragraphs 1 through 30, inclusive, as if fully set forth herein.

42. Defendants Brandon and Gregory Case physically harassed, chased down, and fired shots at Plaintiff Gibson on January 24th, 2022, therein creating a significant fear and terror on the part of Mr. Gibson to date.

43. The conduct of the Defendants was a substantial factor in causing Plaintiff's serious emotional distress; including but not limited to: anguish, fright, horror, nervousness, anxiety, shock, humiliation, and shame that an ordinary, reasonable person would be unable with which to cope. Plaintiff is also suffering from post-traumatic stress disorder as a result of the negligent actions of Defendants Case.

FIFTH CAUSE OF ACTION
(Civil Obstruction of Justice against Chief Kenny Collins)

44. Plaintiff hereby repeats and re-alleges all averments, statements, and paragraphs 1 through 30, inclusive, as if fully set forth herein.

45. Defendant Chief Collins Chief Collins deliberately and intentionally delayed the presentation of critical evidence and documentation pertinent to the incident on January 24th, 2022, for nearly ten months, and failed to properly investigate the crime. As a result, the process of securing justice for Mr. Gibson has been upheld for several months, as well as, the upgrade to the criminal charges against Defendants Brandon and Gregory Case.

46. The conduct of the Defendants was a substantial factor in causing Plaintiff's serious emotional distress; including but not limited to: anguish, fright, horror, nervousness, anxiety, shock, humiliation, and shame that an ordinary, reasonable person would be unable with which to cope. As a result, Plaintiff is also suffering from post-traumatic stress disorder.

WHEREFORE, THE ABOVE BEING CONSIDERED, the Plaintiff respectfully prays for judgment against all Defendants, including compensatory damages, punitive damages against the individually-named Defendants, as well as Defendant FedEx, any and all damages allowed by State and Federal law including attorney's fees, in an aggregate amount well above the jurisdictional amount needed to bring this case in this Court and no less than \$5,000,000.00.

This, the 20th day of January, 2023.

D'MONTERRIO GIBSON, Plaintiff

By: /s/ Carlos E. Moore
Carlos E. Moore, MSB# 100685

OF COUNSEL:

THE COCHRAN FIRM – MS DELTA

306 Branscome Drive

P. O. Box 1487

Grenada, MS 38902-1487

662-227-9940 – phone

662-227-9941 – fax

Email: cmoore@cochranfirm.com